



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1991

Robert A. MacLean, M.D.
Acting Commissioner of Health
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR91-642

: Dear Dr. MacLean:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14235.

You have received a request for information relating to a Department of Health investigation. Specifically, the requestor seeks a copy of "all investigation and recommendations, if any, for violations of the Texas Department of Health Codes in regard to Treemont Health Care Center . . . and the death of Vera Patton, which may or may not bear investigation number 05-89-02-0115." You claim the requested information is made confidential by section 242.127 of the Health and Safety Code and is thus excepted from required public disclosure by section 3(a)(1) of the Open Records Act.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 242.127 of the Health and Safety Code provides for the confidentiality of investigations of abuse and neglect in nursing homes and states:

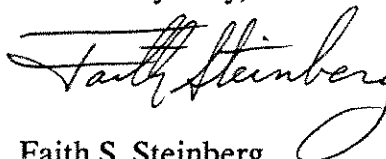
A report, record, or working paper used or developed in an investigation made under this subchapter is confidential and may be disclosed only for

purposes consistent with the rules adopted by the board
or the designated agency.

You advise that the requested report and its attachments were developed as part of an investigation into the alleged abuse and neglect of a patient conducted pursuant to subchapter E of chapter 242 of the Health and Safety Code. Required public disclosure of the report and accompanying attachments would not be consistent with regulations adopted by the Texas Department of Health. *See* 25 T.A.C. § 145.88(i). Given that information, we agree that section 242.127 applies, and thus, that section 3(a)(1) excepts both the report and the accompanying attachments from required public disclosure. *See also* OR91-381.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-642.

Yours very truly,



Faith S. Steinberg
Assistant Attorney General
Opinion Committee

FS/GK/lcd

Ref.: ID# 14235

cc: Mr. Mark J. Carroll
Jack M. Grimm
Plaza of the Americas
14th Floor, South Tower LB 118
600 N. Pearl Street
Dallas, Texas 75201-2880